

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

ANTHONY S. BERRINGER,

Plaintiff,

v.

F. MEZA, et al.,

Defendants.

No. C 12-0021 PJH (PR)

**ORDER FOR PLAINTIFF TO
SHOW CAUSE**

This is a pro se civil rights complaint under 42 U.S.C. § 1983 filed by a state prisoner. A prisoner plaintiff, such as plaintiff here, may not bring a civil action or appeal a civil judgment in forma pauperis "if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g). "Section 1915(g)'s cap on prior dismissed claims applies to claims dismissed both before and after the [PLRA's] effective date." *Tierney v. Kupers*, 128 F.3d 1310, 1312 (9th Cir 1997).

It appears that plaintiff has had at least four cases previously dismissed as frivolous, malicious, or for failure to state a claim. These are: *Berringer v. Salinas Valley State Prison*, C 06-0270 CW (PR) (N.D. Cal. Jan. 8, 2008 (dismissal for failure to state a claim); *Berringer v. Salinas Valley State Prison Kitchen Staff*, C 06-2839 CW (PR) (N.D. Cal. Nov. 1, 2006) (dismissing duplicative complaint as abusive); *Berringer v. Chaverine*, C 06-5832 CW (PR) (N.D. Cal. Nov. 1, 2006) (dismissing duplicative complaint as abusive); *Berringer*

1 v. *California Department of Corrections*, C 07-3353 (N.D. Cal. July 13, 2007) (dismissing
2 duplicative complaint as abusive).

3 Plaintiff shall show cause within thirty days of the date this order is served why leave
4 to proceed IFP should not be denied because of the "strikes" identified above. If he does
5 not respond or is unable to demonstrate that two or more of the cases listed above should
6 not be considered strikes, leave to proceed in forma pauperis will be denied.

7 **IT IS SO ORDERED.**

8 Dated: March 26, 2012.



PHYLLIS J. HAMILTON
United States District Judge